

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LIONRA TECHNOLOGIES LIMITED,

Plaintiff,

v.

FORTINET, INC.

Defendant.

Case No. 2:22-cv-00322-JRG-RSP
(Lead Case)

JURY TRIAL DEMANDED

LIONRA TECHNOLOGIES LIMITED,

Plaintiff,

v.

FORTINET, INC.

Defendant.

Case No. 23-CV-00206-JRG-RSP
(Member Case)

JURY TRIAL DEMANDED

**JOINT MOTION TO VACATE PRETRIAL CONFERENCE AND TRIAL DATE
PENDING RESOLUTION OF ISSUES RELATED TO REPORT &
RECOMMENDATION**

Plaintiff Lionra Technologies Limited (“Plaintiff” or “Lionra”) and Defendant Fortinet, Inc. (“Fortinet”) hereby file this joint motion relating to both *Lionra Technologies Limited v. Fortinet, Inc.*, C.A. No. 2:22-cv-322 (E.D. Tex.) (“Lionra/Fortinet 1”) and *Lionra Technologies Limited v. Fortinet, Inc.*, C.A. No. 2:23-cv-206 (E.D. Tex.) (“Lionra/Fortinet 2”).

Lionra and Fortinet have a significant dispute as to the Magistrate Judge’s April 24, 2024 Report and Recommendation, No. 2:22-cv-00322-JRG-RSP, Dkt. No. 479 (the “R&R”) in Lionra/Fortinet 1. Fortinet takes the position that the decision is fully dispositive and Lionra does

not believe the R&R is fully dispositive as to Fortinet or the other two defendants Cisco and Palo Alto Networks (*Lionra Technologies Limited v. Cisco Systems, Inc.*, C.A. No. 2:22-cv-00305-JRG-RSP and *Lionra Technologies Limited v. Palo Alto Networks, Inc.*, C.A. No. 2:22-cv-00334-JRG-RSP). Additionally, if the R&R is fully dispositive of Lionra/Fortinet 1, then Lionra and Fortinet agree that the R&R also would be fully dispositive of Lionra/Fortinet 2.

Lionra and Fortinet conducted a mediation with the Honorable David Folsom (Ret.) on Thursday, April 25, which was the day after the R&R issued. With Judge Folsom's assistance, Lionra and Fortinet have agreed to a procedural framework that they believe will efficiently resolve the issues relating to the R&R, and then (depending on that resolution) either receive final judgment or continue the case in the district court, and also build in an ongoing mediation structure, all as set forth below. Lionra and Fortinet therefore jointly move for the Court to enter an Order in both Lionra/Fortinet 1 and Lionra/Fortinet 2 adopting the following procedures:

1. Lionra and Fortinet (the "Parties") request that the Court remove Lionra/Fortinet 1 from the trial calendar on May 20, 2024 and also remove Lionra/Fortinet 1 from the corresponding pre-trial conference on May 6, 2024 (and that all pre-trial deadlines in Lionra/Fortinet 1 be suspended other than those for proceedings relating to the R&R).¹ The parties can then seek clarification or reconsideration of or object to the R&R in Lionra/Fortinet 1. The Parties also request that the Court stay Lionra/Fortinet 2.

¹ Lionra and Fortinet do not believe a delay will prejudice either party as all parties (Lionra, Fortinet, Cisco, and Palo Alto Networks) have previously requested that the Court permit either the Palo Alto Networks or Cisco trial to occur first. *See* Dkt 469 ("Joint Motion for Trial Order").

2. If the District Court's final decision on the clarification or reconsideration of or objection to the R&R is favorable to Fortinet, then:
 - a. The Parties will jointly file a proposed final judgment in favor of Fortinet in Lionra/Fortinet 1, which Lionra then can appeal to the Federal Circuit. Within 60 days of such final decision favorable to Fortinet, the Parties would have a further mediation session (before Judge Folsom, subject to his availability).
 - b. Unless such final judgment in Lionra/Fortinet 1 is reversed on appeal and remanded to the District Court, the Parties will dismiss Lionra/Fortinet 2 with prejudice. During the pendency of such appeal in Lionra/Fortinet 1, Lionra/Fortinet 2 would remain stayed (or administratively closed), with the Parties required to file a status report with the District Court every 3 months regarding the status of any appeal in Lionra/Fortinet 1.
3. If the District Court's final decision on the clarification or reconsideration or objection is favorable to Lionra, then within 60 days of such final decision, the Parties will have a further mediation session (before Judge Folsom, subject to his availability). If this mediation does not resolve Lionra/Fortinet 1 and Lionra/Fortinet 2, then the Parties will jointly move to place Lionra/Fortinet 1 back on the trial calendar (subject to the Court's availability) and to lift the stay in Lionra/Fortinet 2.

Dated: April 29, 2024

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel for the Parties met and conferred to discuss the substantive issues addressed in this Motion pursuant to Local Rule CV-7(h). The Parties are jointly seeking the relief sought in this Motion.

/s/ Melissa R. Smith

CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on April 29, 2024.

/s/ Melissa R. Smith